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FAX COVER SHEET

TO Phuoc H. Nguyen
COMPANY USPTO
FAX NUMBER 17038729306
FROM Cliff Lardin
DATE 2005-09-29 14:29:26 GMT
RE Application 10/001,703

COVER MESSAGE

ATTN: Phuoc H. Nguyen
Art Unit 2143

Attached: Request for interview for quick resolution of office action.

Thank you,

Sean Sullivan

Sean Sullivan
PO Box 425475
Cambridge MA 02142
617-764-1471 or 617-388-5178

September 29, 2005

Phuoc H. Nguyen
Art Unit 2143
RE: Patent application 10/001,703

Dear Mr. Nguyen,

I am writing to request an interview, and providing a brief statement of the intended purpose and content of this interview pursuant to MPEP 713.09. Such an interview would narrowly address two or three specific questions (regarding claims 3, 27 and 29), and would lead to a quick disposal or clarification for appeal with only nominal further consideration.

I believe that the issues with respect to claims 3 and 29 are clear, and that these claims are distinguished (or can be distinguished with minor amendment, if I better understand your reading of Wong) from the prior art. I recognize that claim 27 is not promising because of difficulty in finding adequately precise language for the claim. Therefore, I would be content with an interview limited solely to discussion of claims 3 and 29. A description of my specific questions regarding these claims is included below.

If discussion of claims 3 and 29 lead you to believe that either can be distinguished from the prior art, then I will request an examiner's amendment (to claims 1 and 27, respectively) incorporating all subject matter of the dependent claim under discussion into the independent claim. If you prefer to not make this change as an examiner's amendment, then I can file a response to the final office action either requesting such an amendment based on our discussion in the interview, or requesting issuance of the dependent as previously submitted. In addition, I will file revised drawings in response to your objection in the last office action to the drawings.

Alternatively, if you remain convinced that both claims 3 and 29 are not distinguished from the prior art, and do not believe that there is patentable material, then I will abandon the application.

In each of these cases, it is evident that a brief interview for discussing the specific questions posed below should allow for a disposal of the application with only nominal further consideration. Thank you for your kind attention to my request.

From MPEP 713.09: *Normally, one interview after final rejection is permitted. However, prior to the interview, the intended purpose and content of the interview should be presented briefly, preferably in writing. Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations which would require more than nominal reconsideration or new search should be denied.*

CLAIM 3

This claim was rejected as anticipated by Wong US 5,974,465. In the citation (Fig 1-3, Col 4 lines 6-13), and in the rest of Wong, I can find nothing even suggesting that Wong anticipated "processing each message element as an independent message with a separate prioritization value".

Wong's invention clearly assigns a single priority level to the entire contents of any single message. For example, col 4 lines 18-20 state "The priority of the outbound packet is assigned according to the application program which generated that particular packet." Similarly, Figure 3 discloses that the application "Assigns priority to that packet as a function of its application". When assigning a priority level, Wong doesn't even differentiate between different messages generated by the same application. Even more so, nothing in Wong suggests the possibility of giving different priority levels to different elements of a single message, and "processing each message element as an independent message with a separate prioritization value."

Question 1 for an interview: How does the citation in Wong anticipate "processing each message element as an independent message with a separate prioritization value"?

CLAIM 29

This claim was rejected as being obvious over Wong in view of Lu et al. The office action, with respect to the limitations in claim 29, cites Wong figures 1-3, with an emphasis on Figure 3. The key point is the target of the "command to delete"; Wong provides two conditions for deletion, both shown in Figure 3. In case 1, if the buffer is full, the packet is discarded. It is clear that this message remains undelivered, and hence this is quite different from claim 29 where the "command to delete" follows successful delivery. In case 2, Figure 3 teaches to "clear that buffer" after the packet in the buffer has been transmitted. In plain language, the message is deleted at an upstream network node upon transmittal to a downstream network node. In Wong, such a "command to delete" might be said to originate at either the upstream or downstream node -- but in either reading, the target of the "command to delete" is the upstream node that just sent the message to the downstream node.

Now let us turn to claim 29. A message is delivered from computer A (the "sending node") to computer B (a "messaging node"), and then further downstream to computer C (a "portable messaging unit"). There may be other intervening network nodes in the communications path, but at a minimum, we have these three distinct network nodes.

From the teaching of Wong, it would be reasonable, upon transmission from computer B to computer C, to delete the message from computer B. In contrast, in claim 29, computer B sends a message further upstream to computer A, which then sends a "command to delete" to yet another "messaging node" (computer D). The claim explicitly defines that this computer D is distinct from computer B (due to the word "other" in claim 29). Nothing in Wong suggests, upon

sending a message from an upstream to a downstream node within a network, sending a "command to delete" to some other network node that was not participating in the just-completed packet exchange. In Wong, a "command to delete" might be sent from C to B (e.g. a report of a successful packet exchange), or even from B to itself. But nothing in Wong suggests that a "command to delete" might be sent from A to D, neither of which was involved in the packet exchange that was just completed!

Question 2 for an interview: How does the citation in Wong suggest sending "to at least one other messaging node a command to delete ..." since the word "other" explicitly excludes the messaging node that just sent the message downstream?

CLAIM 27

Claim 27 was rejected as being obvious over Wong in view of Lu et al (US Patent Application Publication 2002/0194342). The clause of claim 27 under consideration is the part where Lu et al is cited, especially Figure 17. This clause states that a "communications link is broken" between the central server and a messaging node. The meaning is that the link is *broken*, rendered incapable of conveying communications, rendered inoperable. Paragraph 124 of the present invention describes that "first communications link 70 unexpectedly disconnects before the intended data exchange has completed", and paragraph 108 describes a context such as "disaster relief environments where the communications infrastructure has been damaged, and in geographic regions with unreliable electrical grids or public services." The essence is that the communications link becomes physically unavailable for the conveyance of data, not merely quiescent (such as shown in Figure 17 after a packet exchange is complete) or busy (such as when certain data cannot be transmitted over the link, because the link is operational and sending other data).

Question 3 for an interview: If the present wording "broken" of claim 27 is unclear, is there patentable material in this aspect of the present invention, and if so, is there alternative wording that would be allowable for this claim?

Sincerely,

Sean Sullivan